

SIXTH DAY
(Monday, January 21, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by President Pro Tempore Farabee.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Edwards, Farabee, Harris, Howard, Jones, Kothmann, Krier, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Absent-excused: Caperton, Glasgow, Henderson.

A quorum was announced present.

Pastor Steve Wagner, Minister of the Prince of Peace Lutheran Church of Carrollton, offered the invocation as follows:

Great and gracious God, we give thanks to You for this marvelous day and we invite Your presence as we call this session of the Texas Senate together and begin our business this day. We ask for the wisdom that You have promised as we seek that wisdom and place You first that You guide our efforts and that You crown them with Your success. So we meet today with a sense of that expectation, seeking that wisdom, that direction and compassion that You alone can give. As we offer this prayer and make our beginning in the strong name of Jesus Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, January 16, 1985, was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Henderson was granted leave of absence for today on account of important business on motion of Senator Harris.

Senator Caperton was granted leave of absence for today on account of important business on motion of Senator Edwards.

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Sharp.

REPORT OF STANDING COMMITTEE

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 45
S.B. 44
C.S.S.B. 90

MESSAGE FROM THE HOUSE

House Chamber
January 21, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 19, Honoring Brad Burger, Smith County District Clerk.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 169 by Brown Criminal Justice
Relating to correction of a defect, error, or irregularity in an indictment or information and to waiver of the defendant's right to object to a defect, error, or irregularity in an indictment or information.

S.B. 170 by Mauzy Jurisprudence
Relating to benefits for total and partial incapacity, and declaring an emergency.

S.B. 171 by Glasgow Criminal Justice
Relating to amounts suggested as bail for persons charged with felonies.

S.B. 172 by Parker Education
Relating to the membership of the Southern Regional Education Compact.

S.B. 173 by Montford Natural Resources
Relating to continuation, administration, duties, operations, and finances of the office of Canadian River Compact Commissioner for Texas.

S.B. 174 by Mauzy Jurisprudence
Relating to mandatory workers' compensation coverage insurance and the rates for that insurance.

S.B. 175 by Whitmire, Lyon, Montford Jurisprudence
Relating to the creation of the offense of abandoning or endangering a child and the admissibility of testimony of certain persons in the prosecution of the offense.

S.B. 176 by Caperton, Whitmire State Affairs
Relating to the right of state employees to designate any portion of their earned income to organizations of their own choosing; authorizing a fee.

S.B. 177 by Lyon Economic Development
Relating to requiring radios on certain trains.

S.B. 178 by Mauzy Jurisprudence
Relating to presumption of discrimination upon discharge or suspension of any employee following settlement or Board ruling, and declaring an emergency.

S.B. 179 by Brown Education
Relating to discipline management in public schools, including suspension and expulsion of students.

S.B. 180 by Truan, Krier Education
Relating to compulsory school attendance.

S.B. 181 by Truan Education
Relating to joint operation of a community-based alternative school by two or more school districts.

S.B. 182 by Truan Education
Relating to state funds for local cooperative teacher education centers.

- S.B. 183** by Truan Education
Relating to reimbursement of school district employees for certain damaged personal property.
- S.B. 184** by Truan Education
Relating to the rate at which the state reimburses school districts for approved sick leave of professional personnel.
- S.B. 185** by Brown Criminal Justice
Relating to the punishment for the carrying of weapons and the possession, manufacture, transportation, repair, or sale of prohibited weapons by inmates in the department of corrections.
- S.B. 186** by Brown Criminal Justice
Relating to the sentencing of a defendant who commits an offense while an inmate in the Texas Department of Corrections.
- S.B. 187** by Brown Criminal Justice
Relating to a minimum period of confinement before an inmate is eligible for release on parole or mandatory supervision.
- S.B. 188** by Brown Criminal Justice
Relating to the forfeiture of good conduct time for inmates who violate conditions of a pre-parole transfer program.
- S.B. 189** by Blake State Affairs
Relating to communications with participants in the decision-making process in a contested case under state agency jurisdiction.
- S.B. 190** by Mauzy Jurisprudence
Relating to a general charge to the jury by a district court, county court, or county court at law and the evidence to support certain judgments.
- S.B. 191** by Edwards Education
Relating to the use of certain funds received by Texas State Technical Institute.
- S.B. 192** by Sharp, Leedom Criminal Justice
Relating to the conveyance of certain state real property in Fort Bend County.
- S.B. 193** by Brown Criminal Justice
Relating to capital murder when the murder of a child is involved.
- S.B. 194** by Montford Jurisprudence
Relating to the creation of offenses involving computers.
- S.B. 195** by Sharp Health and Human Resources
Relating to the continuation and changing of the name of the State Commission for the Blind.
- S.B. 196** by Parmer Health and Human Resources
Relating to the regulation of the care and treatment of animals in commercial kennels; providing a penalty.
- S.B. 197** by Parmer Health and Human Resources
Relating to the regulation of the care and treatment of animals in boarding or riding stables; providing a penalty.
- S.B. 198** by Lyon State Affairs
Relating to the availability of special license plates for the surviving spouses of former prisoners of war.

- S.B. 199** by Lyon Education
Relating to requiring an institution of higher education to include a compulsory course on specific learning disabilities as a part of its teacher education program.
- S.B. 200** by Lyon Natural Resources
Relating to the requirement of a permit for processing, storing, or disposing of certain industrial solid waste.
- S.B. 201** by Sharp Health and Human Resources
Relating to the operations and continuation of the Anatomical Board of the State of Texas.
- S.B. 202** by Brown State Affairs
Relating to a limit on the number of persons employed by a state agency.
- S.B. 203** by Sarpalius Natural Resources
Relating to continuation, administration, duties, operations, and finances of the office of Canadian River Compact Commissioner for Texas.
- S.B. 204** by Sharp, Sims Natural Resources
Relating to the continuation, term, duties, and operation of the office of Pecos River Compact Commissioner for Texas.
- S.B. 205** by Sharp Natural Resources
Relating to continuation, term, rights, and duties of the office of Red River Compact Commissioner for Texas.
- S.B. 206** by Sims Natural Resources
Relating to the creation, administration, powers, duties, operations, fiscal procedures, and taxing authority of the Irion County Water Conservation District.
- S.B. 207** by Sharp Education
Relating to grade requirements for participation in extracurricular activities.
- S.B. 208** by Brown Education
Relating to the use of certain lights on school buses.
- S.C.R. 14** by Truan Jurisprudence
Absolving Chipita Rodriguez of proven guilt in the murder of John Savage that occurred in San Patricio County in 1863.
- S.C.R. 17** by Brooks Health and Human Resources
Requesting the Texas Education Agency to assess current health education curriculum requirements for students and teachers, focusing on cancer.
- S.C.R. 18** by Brooks Health and Human Resources
Requesting the 69th Legislature to support the development of a statewide education network to facilitate cooperation among cancer treatment facilities, etc. to encourage early diagnosis and treatment of cancer.
- S.C.R. 19** by Brooks Health and Human Resources
Requesting the 69th Legislature to urge cooperation of all state agencies with the Legislative Task Force on Cancer in Texas.
- S.C.R. 20** by Brooks Health and Human Resources
Requesting the Texas Department of Health to assess participation in the statewide cancer registry.

CO-AUTHOR OF SENATE BILL 175

On motion of Senator Whitmire and by unanimous consent, Senator Lyon will be shown as Co-author of **S.B. 175**.

SENATE RESOLUTION 20

Senator Parker offered the following resolution:

WHEREAS, Monday, January 21, 1985, has been selected as Orange County Day to honor the area and the people of that illustrious county and to recognize their contributions to the State of Texas; and

WHEREAS, Orange County was created from the East Texas county of Jefferson; the year was 1852 and the name was given after an orange grove was found flourishing in the early days of settlement; and

WHEREAS, County boundaries are marked to the west by the Neches River, to the east by the Sabine River, and to the south by Sabine Lake; in olden times, when the United States boundary stopped at the Sabine River and the Texas boundaries extended to the Neches, the area between the two rivers came to be known as "No Man's Land," beyond the jurisdiction of either country and a haven for those wishing to escape the restrictions of civilized government; and

WHEREAS, In the late 1860's and early 1870's, the key to settlement and industrial development lay in the seemingly limitless stands of timber; huge logs were floated down the Sabine River from the Big Thicket, eventually to serve as ship masts on the schooners and sailing ships of the day; one such ship that was built in the county seat of Orange is currently on display at Sea Wolf State Park; and

WHEREAS, Orange County contains vast mineral wealth in the form of oil, gas, clays, sand, gravel, and other valuable lodes; it is the home of a burgeoning oil-industrial economy; since 1913, Orange County has produced over 100 million barrels of oil; it is a center for petrochemicals, rice milling, seafood processing, and the paper industry; a new railroad has been constructed to the Owen-Illinois paper plant in Orange; and

WHEREAS, Orange County's tremendous agribusiness potential is based on an abundance of rice, timber, and soybeans and the raising of poultry and cattle; and

WHEREAS, The county has many historic sites within its borders, especially in the county seat of Orange; Orange is the home of the world's first air-conditioned public building, the "Mothball Fleet" of reserve ships at the Naval Reserve Center, the E. W. Brown Home, the W. H. Stark Mansion and Carriage House, and, adjacent to the Stark Mansion, a new developing Civic Plaza with an art museum and a theater for the performing arts; and

WHEREAS, Since 1962, more tourists have visited Orange County than any other county in the State of Texas; they have come to take advantage of the tremendous fishing, hunting, and water sports of Orange County; and

WHEREAS, It is appropriate that the Senate of the State of Texas recognize Orange County and its citizens for their contributions and accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 69th Legislature, commend Orange County and its citizens and extend to them sincere wishes for a joyous celebration of Orange County Day and for many more such days to come; and, be it further

RESOLVED, That a copy of this resolution be prepared for Orange County in recognition of this great occasion.

The resolution was read and was adopted.

GUESTS PRESENTED

Senator Parker introduced a large delegation of Orange County residents seated in the gallery.

The Senate welcomed them as guests of the Senate for today.

SENATE RESOLUTION 21

Senator Parker offered the following resolution:

S.R. 21, In memory of A. H. "Bob" Montagne, former Lamar University regent from Orange County.

The resolution was read and was adopted by a rising vote of the Members of the Senate.

SENATE RESOLUTION 24

Senator Parker offered the following resolution:

S.R. 24, Welcoming Miss Tamara Hext, Miss Texas, who was fourth runner-up to Miss America 1985, and a resident of Orange County, to the State Capitol on Orange County Day.

The resolution was read and was adopted.

GUEST PRESENTED

Senator Parker presented Miss Hext to the Members of the Senate.

Miss Hext expressed her appreciation for the honor of representing Texas and her welcome to the Texas Senate.

SENATE CONCURRENT RESOLUTION 16

Senator Brooks offered the following resolution:

Commending Bill Wagner, retiring from the Texas Department of Human Resources, for his outstanding years of public service.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted.

GUEST PRESENTED

Mr. Wagner, seated at the President's Rostrum, was welcomed as a guest by the Members of the Senate.

PRESENTATION TO SENATOR PARMER

Senator Mauzy was recognized and presented Senator Parmer a Superman tee shirt, expressing the Senate's appreciation for his efforts to apprehend a purse snatcher who had accosted a visitor on the Capitol grounds.

Senator Parmer expressed his appreciation.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
January 21, 1985

TO THE SENATE OF THE SIXTY-NINTH LEGISLATURE,
REGULAR SESSION:

**PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS**

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article III, Section 5, of the Texas Constitution, I, Mark White, Governor of the State of Texas, submit the following emergency matters for immediate consideration by the Sixty-Ninth Legislature, now convened:

H.B. 2, by Craddick, relating to the conservation, development, and protection and enhancement of the quality of, and flood and subsidence control for, surface and underground water and providing various financing mechanisms to finance conservation, development, and protection and enhancement of the quality of, and flood, subsidence control, recharge, and chloride control for, surface and underground water and agricultural soil and water conservation.

H.J.R. 6, by Craddick, proposing a constitutional amendment to authorize the issuance of an additional \$600 million for Texas Water Development Bonds, to create special water funds for water conservation, water development, water quality enhancement, flood control, drainage, subsidence control, recharge, chloride control, and agricultural soil and water conservation, and to authorize a bond insurance program for water conservation, water development, water quality enhancement, flood control, drainage, recharge, and chloride control.

S.B. 138, by Montford, Santiesteban, and Farabee, relating to the conservation, development, and protection and enhancement of the quality of, and flood and subsidence control for, surface and underground water and providing various financing mechanisms to finance conservation, development and protection and enhancement of the quality of, and flood, subsidence control, recharge, and chloride control for, surface and underground water and agricultural soil and water conservation.

S.J.R. 7, by Santiesteban, Montford, and Farabee, proposing a constitutional amendment to authorize the issuance of an additional \$600 million of Texas Water Development Bonds, to create special water funds for water conservation, water development, water quality enhancement, flood control, drainage, subsidence control, recharge, chloride control, and agricultural soil and water conservation, and to authorize a bond insurance program for water conservation, water development, water quality enhancement, flood control, drainage, recharge, and chloride control.

Respectfully submitted,

/s/Mark White
Governor of Texas

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
January 17, 1985

TO THE SENATE OF THE SIXTY-NINTH LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE A MEMBER OF THE TEXAS PUBLIC BUILDING
AUTHORITY: For a term to expire February 1, 1989: MR. GLEN

A. HEFNER of Houston, Harris County, is being reappointed pursuant to S.B. 11, 68th Legislature, 2nd Called Session.

January 18, 1985

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE JUDGE OF THE 264TH DISTRICT COURT, BELL COUNTY, UNTIL THE NEXT GENERAL ELECTION AND UNTIL HIS SUCCESSOR SHALL BE ELECTED AND DULY QUALIFIED:

JACK W. PRESCOTT
3405 Oakdale Drive
Temple, Texas 76502

(Mr. Prescott is replacing Judge W. E. (Bill) Bachus, Jr. who resigned.)

Respectfully submitted,

/s/Mark White
Governor of Texas

RESOLUTION SIGNED

President Pro Tempore Farabee announced the signing by the President Pro Tempore in the presence of the Senate the following enrolled resolution:

S.C.R. 10

SENATE BILL 39 ON SECOND READING

On motion of Senator Blake and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 39, Relating to vehicle identification numbers on motor vehicles, trailers, and semitrailers.

The bill was read second time and was passed to engrossment.

SENATE BILL 39 ON THIRD READING

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 39** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Washington.

Absent-excused: Caperton, Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Caperton, Glasgow, Henderson.

SENATE BILL 69 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 69, Relating to the amount of collateral required to qualify as a state depository.

The bill was read second time and was passed to engrossment.

SENATE BILL 69 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 69** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Caperton, Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Caperton, Glasgow, Henderson.

MEMORIAL RESOLUTIONS

S.R. 22 - By Mauzy: Memorial resolution for H. Duane Jarvis.

S.R. 26 - By Brooks: Memorial resolution for Dr. Elihu I. Klein.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 23 - By Sims: Extending congratulations to Clarence B. "Buck" James on his selection as the recipient of the Goodyear Spirit Award for 1984.

S.R. 25 - By Caperton: Extending welcome to Dr. L. Jim Donovan of Georgetown, the Capitol Physician for the Day.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:55 o'clock a.m. adjourned until 10:30 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor
(January 17, 1985)

S.C.R. 4

S.C.R. 7

S.C.R. 8

(January 21, 1985)

S.C.R. 10

**In Memory
of
Walter Frank Woodul**

Senator Farabee offered the following resolution:

(Senate Concurrent Resolution 21)

WHEREAS, The State of Texas lost one of its most respected political leaders with the death of former Lieutenant Governor Walter Frank Woodul on October 1, 1984; and

WHEREAS, A native Texan, Governor Woodul was born September 25, 1892, in Laredo; valedictorian of his high school class in Alice, he taught school in Oklahoma before entering The University of Texas Law School in 1913; and

WHEREAS, Elected to the Texas House of Representatives in 1916, Governor Woodul served as chairman of the House State Affairs Committee, vice-chairman of the House Military Affairs Committee, and author of the appropriations bill organizing the 36th division of the American Expeditionary Force; and

WHEREAS, In his role as chairman of the State Affairs Committee, Governor Woodul was instrumental in the establishment of the Texas State Highway Commission; and

WHEREAS, Appointed Assistant Adjutant General of Texas, Governor Woodul later served with great distinction in the United States Army during World War I; and

WHEREAS, After his honorable discharge from the Army in 1919, Governor Woodul established a law practice in Houston; and

WHEREAS, Active in numerous civic and professional organizations, Governor Woodul became director of the Gulf Coast Good Roads Organization; and

WHEREAS, His renewed interest in the state's highway system led him to re-enter public service; and

WHEREAS, After serving three terms as a State Senator, he was elected Lieutenant Governor in 1934, presiding over the Senate during the 44th and 45th legislative sessions; and

WHEREAS, Noted for his strict adherence to Senate rules and his exclusion of lobbyists from the floor during legislative proceedings, Governor Woodul encouraged debate in the Senate Chamber; and

WHEREAS, Returning to his law practice in Houston, Governor Woodul maintained an active interest in good government and served as a member of the board of regents of the State Teachers Colleges and the board for Texas State Hospitals and Special Schools; and

WHEREAS, His death culminated an outstanding lifetime of leadership and service to his community and his state; now, therefore, be it

RESOLVED, That the 69th Legislature of the State of Texas hereby extend deep condolences to his family on their grievous loss: his wife, Ethel; his son, Walter, Jr.; and his two grandsons and one great-grandson; and, be it further

RESOLVED, That copies of this resolution be prepared for his family as an expression of deepest sympathy from the Texas Legislature, and that when

the legislature adjourns this day, it do so in memory of Governor Walter Frank Woodul.

FARABEE
BROOKS

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Farabee and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.